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General Assembly
Fifty-seventh session

Official Records

80th plenary meeting
[illegible]sday, 29 January 2003, 10 a.m.
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President: Mr. Kavan ..... (Czech Republic)

The meeting was called to order at 10.20 a.m.

Agenda item 117 (*continued*)

Scale of assessments for the apportionment of the expenses of the United Nations (A/57/705 and Add.1 to 3)

The President: I should like to invite the attention of the General Assembly to documents A/57/705 and to Addenda 1 to 3 thereto, containing four letters from the Secretary-General addressed to the President of the General Assembly.

In document A/57/705, the Secretary-General informs the Assembly that 27 Member States are in arrears in the payment of their financial contributions to the United Nations within the terms of Article 19 of the Charter.

May I remind delegations that, under Article 19 of the Charter,

> "A Member of the United Nations which is in arrears in the payment of its financial contributions to the Organization shall have no vote in the General Assembly if the amount of its arrears equals or exceeds the amount of the contributions due from it for the preceding two full years."

May I take it that the General Assembly duly takes note of the information contained in document A/57/705?

It was so decided.

The President: In documents A/57/705/Add.1, 2 and 3, the Secretary-General informs the Assembly that, since the issuance of his communication contained in document A/57/705, Antigua and Barbuda, Cape Verde and Kenya have made the necessary payments to reduce their arrears below the amount specified in Article 19 of the Charter.

May I take it that the General Assembly duly takes note of the information contained in documents A/57/705/Add.1 to 3?

It was so decided.

The President: Additionally, I should like to inform members that Mauritania and the Solomon Islands have made the necessary payments to reduce their arrears below the amount specified in Article 19 of the Charter.

May I take it that the General Assembly duly takes note of this information?

It was so decided.

The President: This information will be reflected in an addendum to document A/57/705.

This record contains the text of speeches delivered in English and of the interpretation of speeches delivered in the other languages. Corrections should be submitted to the original languages only. They should be incorporated in a copy of the record and sent under the signature of a member of the delegation concerned to the Chief of the Verbatim Reporting Service, room C-154A. Corrections will be issued after the end of the session in a consolidated corrigendum.

03-24333 (E)

Adoption of the agenda of the fifty-seventh session of the General Assembly, allocation of items and organization of work: note by the Secretary-General (A/57/101/Add.1/Rev.1)

The President: In his note (A/57/101/Add.1/Rev.1), the Secretary-General informs the General Assembly that he has received notification of the resignation of Mr. Juichi Takahara (Japan) from the Advisory Committee on Administrative and Budgetary Questions. The Assembly will therefore be required to appoint, at its current session, a person to fill the unexpired portion of the term of office of Mr. Takahara, that is, until 31 December 2004.

Representatives will recall that this sub-item was allocated to the Fifth Committee.

In order for the Assembly to proceed expeditiously on this sub-item, may I take it that Assembly agrees to consider this sub-item directly in plenary meeting?

It was so decided.

The President: May I further take it that the Assembly agrees to proceed immediately to the consideration of sub-item (a) of agenda item 17?

It was so decided.

Agenda item 17 ***(continued)***

Appointments to fill vacancies in subsidiary organs and other appointments

(a) Appointment of members of the Advisory Committee on Administrative and Budgetary Questions

Note by the Secretary-General (A/57/101/Add.1/Rev.1)

The President: In his note, the Secretary-General also informs the General Assembly that the Government of Japan has nominated Mr. Jun Yamazaki to fill the vacancy arising from the resignation of Mr. Takahara. The note further states that the President of the General Assembly was informed by the Chairman of the Group of Asian States that the candidature of Mr. Yamazaki has been endorsed by the Group.

May I therefore take it that it is the wish of the Assembly to appoint Mr. Jun Yamazaki as a member of the Advisory Committee on Administrative and Budgetary Questions for a term of office beginning on 29 January 2003 and ending on 31 December 2004?

It was so decided.

The President: The Assembly has thus concluded this stage of its consideration of sub-item (a) of agenda item 17.

Agenda item 18

Election of judges of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994

Letter from the President of the Security Council (A/57/491)

Memorandum by the Secretary-General, including the list of candidates (A/57/492 and Corr.1)

Curricula vitae (A/57/493)

The President: The General Assembly will proceed to the election of eleven permanent judges of the International Criminal Tribunal for Rwanda for a four-year term of office commencing on 25 May 2003.

As members are aware, at the 52nd plenary meeting of the fifty-third session, held on 3 November 1998, the General Assembly elected the nine judges of all three Trial Chambers of the International Criminal Tribunal for Rwanda. Their terms of office are due to expire on 24 May 2003.

By its resolution 1329 (2000), of 30 November 2000, the Security Council decided to increase the number of judges in the Appeals Chamber of the International Criminal Tribunal for Rwanda and of the International Tribunal for the Former Yugoslavia. In order that the increase in the number of judges in the Appeals Chamber might be made, the Security Council also decided that two additional judges should be elected as soon as possible as judges of the

International Criminal Tribunal for Rwanda, and that the judges so elected should serve until the expiry of the terms of office of the judges currently serving on the Tribunal.

At the 99th plenary meeting of the fifty-fifth session, held on 24 April 2001, the General Assembly elected the two additional judges. The terms of office of the two additional judges so elected are also due to expire on 24 May 2003.

The election of the eleven permanent judges will take place in accordance with the relevant provisions of article 12 and article 12 bis of the Statute of the International Criminal Tribunal for Rwanda, as amended by the Security Council in its resolution 1431 (2002), of 14 August 2002.

In accordance with article 12 bis, paragraph 1 (d), of the Statute of the International Criminal Tribunal for Rwanda, as amended by the Security Council, the Holy See, being a non-member State that maintains a permanent observer mission at United Nations Headquarters, will participate in the election in the same manner as the States Members of the United Nations. I am happy to welcome here the representative of the Holy See.

In accordance with subparagraph 1 (c) of article 12 bis of the Statute of the International Criminal Tribunal for Rwanda, the Security Council, at its 4666th meeting, held on 13 December 2002, established a list of 23 candidates for transmittal to the General Assembly. The list, which was adopted by the Council in resolution 1449 (2002), of 13 December 2002, was formally conveyed to the President of the General Assembly by a letter dated 13 December 2002 from the President of the Security Council. The letter was issued as document A/57/491.

I would like to take this opportunity to draw the attention of the Assembly to the other documents relating to the election.

The memorandum by the Secretary-General concerning the election of judges of the International Criminal Tribunal for Rwanda is contained in document A/57/492 and corrigendum 1. The list of candidates can be found in paragraph 11 of document A/57/492. The curricula vitae of the candidates are contained in document A/57/493. In that connection, I would like to bring to the Assembly's attention article 12 of the Statute of the International Criminal Tribunal for Rwanda, as amended, which stipulates that permanent judges of the Tribunal shall be persons of high moral character, impartiality and integrity who possess the qualifications required in their respective countries for appointment to the highest judicial offices. According to the same provision, due account shall be taken in the overall composition of the Chambers of the Tribunal of the experience of the judges in criminal law and international law, including international humanitarian law and human rights law.

Also in connection with this election, I would like to bring to the attention of the General Assembly the following. Given the similar nature of the election of judges of the International Court of Justice and the election of judges of the International Criminal Tribunal for Rwanda, it was decided at the time of the elections of judges in 1995, 1998 and 2001 to follow similar election procedures in the General Assembly. In his memorandum contained in document A/57/492, the Secretary-General suggests, in paragraph 12 (b), that those precedents be followed and that rule 151 of the rules of procedure of the General Assembly be applied to the election of permanent judges of the International Criminal Tribunal for Rwanda.

Unless I hear any objection, I shall take it that the Assembly agrees to that suggestion.

It was so decided.

The President: In accordance with paragraph 1 (d) of article 12 bis of the Statute of the International Criminal Tribunal for Rwanda, as amended, the candidates who receive an absolute majority of the votes of States Members of the United Nations and of the non-member State shall be declared elected. The consistent practice of the United Nations has been to interpret the words "absolute majority" as meaning a majority of all electors, whether or not they vote or are allowed to vote. The electors, for this purpose, are all 191 Member States, together with the non-member State the Holy See. Accordingly, 97 votes constitute an absolute majority for the purpose of the present election.

If, in the first ballot, the number of candidates obtaining an absolute majority is less than 11, a second ballot will be held, and balloting will continue in the same meeting, if and as necessary, until 11 candidates have obtained an absolute majority. In any second or subsequent ballot, each elector may vote for no more

than 11 candidates, less the number of candidates who have already obtained absolute majorities.

Following the practice in the election of judges of the International Court of Justice, the Secretary-General suggests in his memorandum that any second or subsequent balloting shall be unrestricted. Votes may accordingly be cast in any second or subsequent ballot for any eligible candidate who has not yet obtained an absolute majority.

It is further suggested that, following the practice in the election of the judges of the International Court of Justice, if more than 11 candidates obtain an absolute majority of votes in the first ballot, a second ballot will be held on all candidates, and balloting will continue at the same meeting, if and as necessary, until 11 candidates, and no more, have obtained an absolute majority.

Unless I hear any objection, I shall take it that the Assembly agrees to the procedures I have just outlined.

It was so decided.

The President: I now give the floor to the Observer of the Holy See.

Archbishop Migliore (Holy See): The Holy See has been following with attention the activities of the International Tribunal for Rwanda, and it regards the Tribunal as a juridical instrument of the international community to express its condemnation of violations of international humanitarian law. In consideration of its specific nature and its objectives, and in accordance with the recognized practices in similar cases, the Holy See, although invited to participate in the voting process, has decided, as in previous occasions, to abstain from casting its votes on the individual candidates for the office of judge of the International Tribunal for Rwanda.

My delegation wishes to take this opportunity to renew its confidence in the choices that will be made by the international community and to express to the judges who will be elected today the best wishes for success in their efforts to promote justice, reconciliation and peace in Rwanda.

The President: Before we begin the voting process, I should like to remind members that pursuant to rule 88 of the rules of procedure of the General Assembly,

> "After the President has announced the beginning of voting, no representative shall interrupt the voting except on a point of order in connection with the actual conduct of the voting."

Therefore, any announcement such as those concerning withdrawals of candidatures should be made prior to the commencement of the voting process, that is to say, before the announcement of the beginning of the voting process.

I should like to seek the usual cooperation of representatives during the time of the conduct of the election. Please be reminded that during the voting process, all campaigning should cease in the General Assembly Hall. This means, in particular, that once the election has begun, no more campaign material can be distributed inside the Hall. All delegates are also requested to remain at their seats so that the voting process can proceed in an orderly manner. I thank you for your cooperation.

We shall now begin the voting process. Ballot papers will now be distributed.

I request representatives to use only those ballot papers that are being distributed. Representatives may vote for no more than 11 candidates. Only those candidates whose names appear on the ballot papers are eligible for election. Representatives will indicate the 11 candidates for whom they wish to vote by placing crosses to the left of their names on the ballot papers. Ballot papers on which more than 11 names are marked will be considered invalid. Votes may be cast only for those whose names appear on the ballot papers.

At the invitation of the President, Mr. Mangueira (Angola), Ms. Stanley (Ireland), Mr. Kipkemei Kottut (Kenya), Ms. Phonseya (Lao People's Democratic Republic), Mr. Ruckelshaussen Villarejo (Paraguay) and Mr. Staszak (Poland) acted as tellers.

A vote was taken by secret ballot.

The meeting was suspended at 10.50 a.m. and resumed at 12.20 p.m.

The President: The result of the voting is as follows:

Number of ballot papers:	174
Number of invalid ballots:	0
Number of valid ballots:	174
Abstentions:	3

Number of Members voting:	171
Required absolute majority:	97
Number of votes obtained:	
Mr. Mehmet Güney (Turkey)	126
Mr. Erik Møse (Norway)	121
Ms. Andrésia Vaz (Senegal)	113
Ms. Inés Mónica Weinberg de Roca (Argentina)	100
Mr. Lloyd George Williams (Saint Kitts and Nevis)	99
Mr. William Hussein Sekule (United Republic of Tanzania)	97
Mr. Serguei Aleckseievich Egorov (Russian Federation)	96
Mr. Mansoor Ahmad (Pakistan)	94
Mr. Asoka de Zoysa Gunawardana (Sri Lanka)	91
Ms. Arlette Ramaroson (Madagascar)	88
Mr. Jai Ram Reddy (Fiji)	88
Mr. Pavel Dolenc (Slovenia)	79
Mr. Kocou Arsène Capo-Chichi (Benin)	75
Mr. Michel Mahouve (Cameroon)	73
Mr. Francis M. Ssekandi (Uganda)	72
Mr. Frederick Mwela Chomba (Zambia)	71
Mr. Winston Churchill Matanzima Maqutu (Lesotho)	69
Mr. Mohammed Ibrahim Werfalli (Libyan Arab Jamahiriya)	63
Mr. Emile Francis Short (Ghana)	62
Mr. Cheick Traoré (Mali)	49
Mr. Robert Fremr (Czech Republic)	46
Mr. Teimuraz Bakradze (Georgia)	29
Mr. Xenofon Ulianovschi (Republic of Moldova)	11

Having an obtained an absolute majority, the following six candidates were elected members of the International Criminal Tribunal for Rwanda for a four-year term of office beginning on 25 May 2003: Mr. Mehmet Güney, Mr. Erik Møse, Mr. William Hussein Sekule, Ms. Andrésia Vaz, Ms. Inés Mónica Weinberg de Roca and Mr. Lloyd George Williams.

The President: There remain five seats to be filled. The Assembly will now proceed to another ballot to fill the remaining five vacancies.

In accordance with the decision taken earlier, that ballot shall be unrestricted.

We shall now begin the voting process. Ballot papers will now be distributed.

I request representatives to use only the ballot papers that have been distributed. Only those candidates whose names appear on the ballot papers are eligible for election. Representatives will indicate the five candidates for whom they wish to vote by placing crosses to the left of their names on the ballot papers. Ballot papers on which more than five names are marked will be considered invalid. Votes may be cast only for those whose names appear on the ballot papers.

At the invitation of the President, Mr. Mangueira (Angola), Ms. Stanley (Ireland), Ms. Phonseya (Lao People's Democratic Republic), Mr. Ruckelshaussen Villarejo (Paraguay) and Mr. Staszak (Poland) acted as tellers.

A vote was taken by secret ballot.

The meeting was suspended at 12.35 p.m. and resumed at 1.30 p.m.

The President: The result of the voting is as follows:

Number of ballot papers:	173
Number of invalid ballots:	1
Number of valid ballots:	172
Abstentions:	3
Number of Members voting:	169
Required absolute majority:	97
Number of votes obtained:	
Mr. Mansoor Ahmad (Pakistan)	95
Mr. Serguei Aleckseievich Egorov (Russian Federation)	85
Mr. Jai Ram Reddy (Fiji)	84
Ms. Arlette Ramaroson (Madagascar)	77
Mr. Asoka de Zoysa Gunawardana (Sri Lanka)	68
Mr. Pavel Dolenc (Slovenia)	62
Mr. Kocou Arsène Capo-Chichi (Benin)	58
Mr. Frederick Mwela Chomba (Zambia)	49
Mr. Michel Mahouve (Cameroon)	46
Mr. Francis M. Ssekandi (Uganda)	44
Mr. Mohammed Ibrahim Werfalli (Libyan Arab Jamahiriya)	37
Mr. Winston Churchill Matanzima Maqutu (Lesotho)	29
Mr. Emile Francis Short (Ghana)	28
Mr. Cheick Traoré (Mali)	20

Mr. Robert Fremr (Czech Republic)	19
Mr. Teimuraz Bakradze (Georgia)	11
Mr. Xenofon Ulianovschi (Republic of Moldova)	6

Since no candidate has obtained an absolute majority, the Assembly will have to proceed to another unrestricted ballot to fill the remaining five vacancies.

In view of the late hour, I suggest that we suspend the meeting until 3 o'clock this afternoon.

The meeting was suspended at 12.35 p.m. and resumed at 3.20 p.m.

The President: As announced this morning, the General Assembly will now proceed to a third ballot to fill the remaining five vacancies. In accordance with the decision taken earlier, the ballot shall be unrestricted.

I should like to announce that the representatives of Georgia and the Republic of Moldova have informed me that Mr. Teimuraz Bakradze (Georgia) and Mr. Xenofon Ulianovschi (Republic of Moldova) no longer wish to be considered as candidates. Accordingly, those names have been struck from the ballot paper.

Mr. Keita (Mali) (*spoke in French*): I wish to inform the Assembly that we have decided to withdraw the candidacy of Judge Cheick Traoré.

The President: Members have heard the statement by the representative of Mali, that Mr. Cheick Traoré has decided to withdraw his name from the list of candidates established by the Security Council. Accordingly, that name will also be struck from the ballot paper.

In view of the fact that new ballots have to be prepared to take into account the withdrawal of the candidate from Mali, which has just been announced, I would suggest that the Assembly suspend its meeting at this point and that we resume our meeting in 15 minutes, to proceed to the third round of balloting.

Unless I hear any objection, I shall take it that the Assembly agrees to that proposal.

It was so decided.

The President: Before we suspend the meeting, allow me to clarify the situation as it now exists.

The candidates currently before the General Assembly are as follows: Mr. Mansoor Ahmad (Pakistan), Mr. Kocou Arsène Capo-Chichi (Benin), Mr. Frederick Mwela Chomba (Zambia), Mr. Pavel Dolenc (Slovenia), Mr. Serguei Aleckseievich Egorov (Russian Federation), Mr. Robert Fremr (Czech Republic), Mr. Asoka de Zoysa Gunawardana (Sri Lanka), Mr. Michel Mahouve (Cameroon), Mr. Winston Churchill Matanzima Maqutu (Lesotho), Ms. Arlette Ramaroson (Madagascar), Mr. Jai Ram Reddy (Fiji), Mr. Emile Francis Short (Ghana), Mr. Francis M. Ssekandi (Uganda) and Mr. Mohammed Ibrahim Werfalli (Libyan Arab Jamahiriya).

Mr. Effah-Apenteng (Ghana): I just wish to inform the Assembly that the candidature of Mr. Emile Francis Short of Ghana has been withdrawn.

The President: As no one else wishes to take the floor, the ballot papers will now be prepared accordingly, with the names of the candidates from Mali and Ghana struck from the ballot papers. The ballot papers will be prepared in 15 minutes.

The meeting was suspended at 3.25 p.m. and resumed at 3.40 p.m.

The President: The Assembly will now proceed to a third ballot, to fill the remaining five vacancies. In accordance with the decision taken earlier, the ballot shall be unrestricted.

We shall now begin the voting process. Ballot papers will now be distributed. I request representatives to use only those ballot papers that have been distributed. Only those candidates whose names appear on the ballot papers are eligible for election. Representatives will indicate the five candidates for whom they wish to vote by placing crosses to the left of the names on the ballot papers. Ballot papers on which more than five names are marked will be considered invalid. Votes may be cast only for those whose names appear on the ballot papers.

At the invitation of the President, Mr. Mangueira (Angola), Ms. Stanley (Ireland), Mr. Kipkemei Kottut (Kenya), Ms. Phonseya (Lao People's Democratic Republic), Mr. Ruckelshaussen Villarejo (Paraguay) and Mr. Staszak (Poland) acted as tellers.

A vote was taken by secret ballot.

The meeting was suspended at 3.50 p.m. and resumed at 5.40 p.m.

The President: As members will undoubtedly recall, at the opening of the 80th plenary meeting of the General Assembly this morning, I informed members that certain Member States had made the necessary payments to reduce their arrears below the amount specified in Article 19 of the Charter. The General Assembly decided to take note of that information. Pursuant to that decision, the States concerned participated in the three rounds of balloting that have taken place today.

Unfortunately, I have now been informed that one of those States has not in fact made the necessary payment to reduce its arrears below the amount specified in Article 19 of the Charter. In view of this situation, I have extensively consulted with the Office of Legal Affairs. I deeply regret to inform representatives that the first ballot, and so, necessarily, the second and third ballots also, are invalid. Consequently, the candidates who were announced as elected can no longer be so considered.

In view of this — allow me to say — highly unfortunate situation, I would propose to the Assembly that the elections should commence anew on Friday, 31 January, at 10 a.m. This will allow delegations to receive instructions from their capitals.

Since the elections must commence again, it naturally follows that the withdrawals that were announced today are also to be considered as not having been made. The elections will therefore be conducted on the basis of the full list of 23 candidates whose names appear in document A/57/492 and corrigendum 1. States may, of course, communicate the withdrawal of candidates to the Secretariat prior to Friday's election.

The meeting was suspended at 5.45 p.m., Wednesday, 29 January, and resumed at 10.30 a.m., Friday, 31 January.

The President: Before proceeding to the item on our agenda, I should like to draw the attention of the General Assembly to documents A/57/705/Add.4, 5 and 6, by which the Secretary-General informs the President of the General Assembly that, since the issuance of his communications contained in documents A/57/705 and Addenda 1 to 3, Solomon Islands, Haiti and Dominica have made the necessary payments to reduce their arrears below the amount specified in Article 19 of the Charter.

I asked for this information to be checked and rechecked, and I have it in writing here, signed by the responsible officers.

May I take it that the General Assembly duly takes note of the information contained in these documents?

It was so decided.

The President: As you are all undoubtedly fully aware, we are soon to proceed to a new election of 11 permanent judges of the International Criminal Tribunal for Rwanda. This is the result of my ruling last Wednesday. Since then, I have received six protests from permanent missions of the countries whose judges were elected on Wednesday in the first round and whose elections were later declared invalid.

Let me stress from the outset that I fully sympathize with the dismay and frustration felt by these and probably many more delegates. For example, I fully agree with the representative of the United Republic of Tanzania that we need to obtain "a full accounting, step by step, of what transpired and who was responsible". I would also like to assure the Permanent Representative of Turkey that I deal with this matter with utmost seriousness.

Let me summarize what happened on Wednesday, given the information available to me to date. As you are surely aware, at the opening of the 80th plenary meeting of the General Assembly on Wednesday morning, I informed representatives that certain Member States had made the necessary payments to reduce their arrears below the amount specified in Article 19 of the Charter of the United Nations. The General Assembly took note of information that was not correct. The Assembly then proceeded in good faith to conduct three rounds of balloting on the supposition that the information that had been conveyed to it was correct. Unfortunately, it was not. Most unfortunately, the information that the Secretariat had given to me, and which I had transmitted to representatives, was erroneous. As we are all now aware, one of the States concerned had not, in fact, made the necessary payment to reduce its arrears below the amount specified in Article 19 of the Charter.

I was informed of this situation while the votes cast in the third round of balloting were being counted.

When I received this information, I was astonished, to put it mildly and diplomatically. I immediately sought the advice of the Office of Legal Affairs. Having obtained the advice of that Office, I informed the Assembly that the first ballot, and so necessarily the second and third ballots also, were invalid. In consequence, the candidates who were announced as having obtained absolute majorities could no longer be considered to have obtained those majorities. The Charter had been violated. For the first time in the history of the United Nations, elections took place in which the rules embodied in the United Nations basic document, the Charter of the United Nations, were violated.

We do not have a precedent that could help us to move on. Let me stress that since we are now establishing the precedent for any future elections, we must proceed in the most responsible and sensitive way, being fully aware of the consequences.

As I said earlier, yesterday I received communications from six delegations in which representatives expressed their deep concern about the situation. Let me inform you that I have written a letter to Under-Secretary-General Catherine Bertini, the head of the Secretariat's Department of Management, requesting a full and objective investigation that will be reported to Member States. In that letter, I made clear my deep dismay and also the fact that I am aware of the effect that the erroneous information provided by the Secretariat could have on the final outcome of the elections, and also of the political implications, not to mention, of course, financial costs arising from the extra meetings of the General Assembly. I also requested that the investigation report should include a recommendation on measures which should be adopted to prevent such a situation ever recurring in the future.

However, I am absolutely sure — and here I would like to refer to the letter sent to me by Mr. Hans Corell, Under-Secretary-General for Legal Affairs, the Legal Counsel, which I asked to be distributed to all of you — that we took the right decision as we declared the results of the Wednesday election invalid. The mandates of the judges must be legitimate without any doubt whatsoever. No mandate can be legitimate if the Charter is violated during the election.

I call upon all the representatives to consider all the aspects of this difficult situation. The dignity of the General Assembly, as well as the dignity of the United Nations, is at risk.

Regrettably, I have to admit the conditions of this morning's elections are not exactly the same as they were on Wednesday. But let us not forget that the most important criterion for the election is stated in accordance with article 12 of the Statute of the International Tribunal for Rwanda as it was adopted by Security Council resolution 955 (1994): "The judges shall be persons of high moral character, impartiality and integrity." During a time of crisis, we must stick to the rules that we ourselves have created.

Let me also say that I understand the sentiment expressed by the Permanent Representative of the Argentine Republic, who, in a letter sent to me, expressed his anxiety that today's new elections might result in an outcome different from that of the first round of elections, which took place on Wednesday. We must all unite in our determination to preserve the legitimacy of United Nations elections, as I have made clear.

I have absolutely no intention to interfere in any way with the sovereign right of each delegation to vote in the way it sees fit. But allow me to express my personal hope that delegations will vote today in the same way as they did on Wednesday, thus ensuring that the results will be the same. I am sure that that would meet with everyone's approval.

The General Assembly should continue with the election of 11 permanent judges of the International Criminal Tribunal for Rwanda. First, however, several representatives have requested the floor.

Mr. Lewis (Antigua and Barbuda): I have the honour to speak on behalf of the Group of Latin American and Caribbean States (GRULAC) with reference to the unfortunate decision of 29 January regarding the elections for the International Criminal Tribunal for Rwanda. I must state that GRULAC is united in its profound concern about a matter that was not brought to this body before a decision was made, reportedly based on legal expertise. For the General Assembly not to be involved in the solution of any unforeseen circumstance that arises during an election, and for a decision to be taken devoid of any input from this body, sets a dangerous precedent. As such, that decision should be reversed.

In this instance, with specific regard to the six countries elected on the first ballot, the legal principle by which the outcome of an election is determined is the following. If there is an irregularity in the electoral process, the question to be asked is, could such an irregularity have affected the outcome of the election with respect to a particular candidate? If the answer to that question is no, then the election of that candidate is not affected by such an irregularity and the election of that candidate stands. That is a bedrock principle. Again, I speak on behalf of a solidified and united group of 33 States.

Mr. Schumacher (Germany): We took note of the decision that the President just explained to us, and we very much appreciate the fact that, in this very difficult situation, he tried to take a decision truly aimed at upholding the principles of the Charter. On the other hand, we very much understand the reasons that were just set forth by the representative of Antigua and Barbuda.

The President himself said that there is no precedent for such a situation, and I wonder whether it is truly correct that the only decision that is possible, according to the Secretariat and its legal adviser, would be to return to the first ballot and to repeat the electoral process. I understand that three candidates — three judges — have confirmed their decision to withdraw from the elections. Under those circumstances, it cannot be the same electoral process.

In addition — I have not verified this yet, but I understand that we do not fulfil the requirement that there must be twice as many candidates as available seats for elections. And I wonder whether it would be possible, under these circumstances, to arrive at a very pragmatic solution that solves this problem and supports our common goal of making the Court as efficient as possible and not hampering it in its future work. I would suggest that the President consult first with the 22 countries that had presented a candidate and find out whether it would be possible for us to continue with the third ballot at the point at which the elections were interrupted.

So my suggestion would be that we find out whether a pragmatic solution is possible. The General Assembly is the master of its own ceremonies, and I think we can take a decision that takes into account the prerequisites of Article 19 of the Charter by deciding that we can continue with the third ballot, particularly in light of the fact that no candidate on the first two ballots was elected with a slim majority of only one vote.

Mr. Kerim (the former Yugoslav Republic of Macedonia): I should like to join previous speakers in expressing our deep concern about the unfortunate outcome of the elections held on 29 January. For the sake of the dignity of this body, and for the sake of your authority, Mr. President, I should like to ask you to reconsider the decision that has been made, because the explanations and descriptions provided by the Secretariat are simplifying the implications of that unfortunate outcome. If we accept such an interpretation, that would mean that we would contravene our sovereign right to vote. That would have more serious implications than to state when the error was made, to locate it and to hold to account those who made such an error, which has such serious political implications for the Assembly.

I should like to conclude by supporting the representatives of Germany and of Antigua and Barbuda in appealing for reconsideration of the decision.

Mr. Pamir (Turkey): At the opening of the plenary meeting of the General Assembly on the morning of 29 January, the President of the Assembly provided information on countries that had made the necessary payments to reduce their arrears, without specifying the amounts, in accordance with Article 19 of the Charter. Consequently, the Assembly decided to take note of that decision, which enabled those Member States to vote in the Assembly. However, after three rounds of voting, which resulted in the election of six of the candidates on the first ballot, we heard the President's declaration that the results of the elections were invalidated, as one of the States concerned had not actually made the required payment. The reasons that led to that invalidation of the election results were not adequately disclosed. It is the right of each Member State to be informed in this regard.

Belatedly — in fact, a few minutes ago — the President provided us with the relevant information. Thus, a re-election is being imposed on the General Assembly.

It is not that any Member State has scruples about elections, but we are concerned that a dangerous precedent could be established by nullifying a democratically achieved election. Invalidating this

result is also tantamount to a distortion of the free will of Member States. Might not that decision inadvertently pave the way for unforeseeable abuses in future elections?

I should like to draw the Assembly's attention to the psychological implications of this decision. From now, a shadow of doubt will be cast over every election that takes place in the General Assembly.

I hope that, in view of these concerns and considerations, every possible measure will be taken to prevent a recurrence of such mismanagement.

Mr. Listre (Argentina) (*spoke in Spanish*): Allow me at the outset to express to you, in your capacity as President, my sympathy, appreciation and respect, in the context of the unfortunate situation facing the General Assembly, the Member States and you yourself, for reasons beyond your control.

We are in a situation in which a nullification, invoked during an electoral process, is attempting to annul an entire process in which States had cast their votes in good faith. Three electoral rounds had already been carried out, and voting was suspended. The President of the General Assembly, in my opinion, on bad legal advice, decided to annul a vote.

With all due respect, I believe that the General Assembly should be the sole judge of its actions. Only the General Assembly itself can arrive at the decision that a vote taken by the Assembly is null and void. No other authority — neither the President of the General Assembly, nor the opinion of the Secretary-General or the legal opinion of the Secretariat — can supersede the sovereign will of the General Assembly. Let me stress that point: the Assembly is the sole judge of its own actions.

But I believe that we have to try to deal with this situation in good faith, in good order, in the spirit of safeguarding the prestige of the General Assembly and of preserving the authority of its President and harmony among its members.

I believe, therefore, that in this situation we can apply the concepts that have just been pointed out, with good reason and common sense, by the Permanent Representative of Antigua and Barbuda. In the face of an invalid act, the first question we must address is: Would declaring it invalid change the act itself? Would the nature of the act be the same, or could it be corrected? The answer is no: declaring it invalid would not change the validity of the act or its result. Therefore the act can be ratified. Who can ratify it? The General Assembly. No other authority can declare it either null and void, or valid.

Also, in practical terms, I would suggest to the Assembly that it use the criterion proposed by the representative of Germany — that is to say, that it declare valid the outcome of the three votes that were held; that the third-round votes be counted; that the Assembly be informed; and that we proceed to a new round of voting with the new members that can vote, excluding those that cannot do so.

Mr. Mwandembwa (United Republic of Tanzania): My country, as one of the States affected by the invalidation of the election results announced on 29 January, still believes that the invalidation was wrongly done by the President. Tanzania believes that the President should have first consulted with the General Assembly before adopting that ruling. It is the General Assembly, not the President or the Secretary-General, that is the final judge of any considerations related to the countries that were announced as entitled to vote, and the consequences thereof.

The decision to invalidate the whole election is causing major harm. To say that it is a procedural effect that is not the responsibility of the Member States, in particular of those that were elected, is a grave and irresponsible attack on the legitimate rights of the elected candidates.

Once again, my delegation is very anxious to have a full account of what transpired before and after the second ballot which led to the invalidation of the ballot. The nullification of the election results long after they have been certified is unprecedented. It is important, therefore, to have a step-by-step full accounting before a first step is taken lest we fall into the same trap.

Mr. Fall (Senegal) (*spoke in French*): At the outset, let me thank you, Sir, for your praiseworthy efforts to enable us better to understand the situation. My delegation understands full well that the decision you took was based on information and an opinion given to you by the services of the Legal Adviser. That is why my delegation, in the letter that it has sent to you, informed you of its disappointment at your decision to invalidate the electoral process for the judges of the International Tribunal for Rwanda prior to the proclamation of the outcome of the third ballot.

In the same letter, I also noted that, although the intention that underpins it is understandable, that decision does a great disservice to the six judges already elected, including the candidate from Senegal, and could amount to an attack on the sovereignty of the General Assembly itself.

My delegation is pleased to note that all of the delegations having thus far spoken have endorsed this particular line of thinking. That is why my delegation would like to support the proposal put by all delegations, in particular by the delegation of Antigua and Barbuda, and by the delegation of Germany.

Mr. Richardson (Saint Kitts and Nevis): The delegation of Saint Kitts and Nevis would like to place on record its concern over the course of events which transpired on Wednesday, 29 January 2003, during the election of judges for the International Criminal Tribunal for Rwanda.

We would like to state at the outset that we are committed to the principles and legitimacy of the Office of the President of the General Assembly, the Office of the Secretary-General and the General Assembly to render the appropriate and necessary decisions to ensure the efficient functioning of the United Nations and its organs.

My delegation also needs to emphasize that our intervention stems from the fact that such an unprecedented occurrence was not given the proper attention by the three aforementioned entities through consensus and dialogue.

We acknowledge that human error came into play. Unfortunately, all involved were greatly inconvenienced. We do not believe, however, that any of the candidates — who all worked tirelessly on their campaigns — should be penalized. We state this only as a concerned delegation. It is necessary for all Member States to remain objective on this matter and work through dialogue to the best viable solution.

It would be remiss of my delegation not to highlight the fact that any dialogue should include the Office of the President, the Office of the Secretary-General and the Member States of the General Assembly, including those Member States that have not yet paid their dues.

The President: Let me briefly respond to what has been said.

I duly note the sentiments expressed by the Permanent Representatives of the countries who sent me the letters which I mentioned in my introductory remarks and which are the countries whose members were elected as judges in the first round on Wednesday morning. I made clear in my introductory remarks that I fully understand their sentiments. I would like to reassure the representative of Saint Kitts and Nevis that it was never my intention to penalize any of the candidates.

I also said in my introductory remarks that I fully understand the request of the United Republic of Tanzania for a step-by-step full account of what transpired and made clear that I have already asked for such a report to be prepared and made available to Member States.

I would like to assure the Permanent Representative of Turkey that I am fully aware that the situation can lead to a dangerous precedent. I am also aware of the psychological implications, but I am fully determined to ensure that no shadow of any kind will be cast over any future United Nations elections. The fact, however regrettable, is that on Wednesday the elections took place in violation, albeit unwittingly, of Article 19 of the Charter of the United Nations. We have to take that into account. As I have said, we should respect the rules we have ourselves created; otherwise, this could cast that shadow over future United Nations elections.

I listened carefully to what the representative of Germany proposed, which he called a pragmatic decision. Let me share with the General Assembly my personal sentiment that, if a pragmatic decision could be found that would also square with the legal requirements and the legal analysis of what happened, I for one would be extremely happy. However, I have to refer to the legal analysis which was supplied to me by Hans Corell and which I made available to the Assembly — that is, the elections were correctly to be described as invalid because they took place while the United Nations Charter was violated.

If I understood correctly the remark made by the representative of Germany, he claimed that no candidate elected was elected by the small majority of one. That is not the case. There was such a small majority. Therefore, there is a possibility that, if the State that voted in violation of the rules had not voted, the outcome could have been different. Unfortunately,

the figures are such. Rather than discriminate against that one judge, the legal opinion of the Legal Counsel of the United Nations was that it is regrettable but inevitable, in order to fulfil and respect our rules and not to discriminate against anyone, that we declare those elections invalid and start again.

I fully agree with the representative of the Argentine Republic that it is the General Assembly that is the sole and only judge and I have no intention of not respecting the decision of the General Assembly. If the General Assembly wishes to overturn my ruling, which was based — as was acknowledged by many of the speakers — on the legal analysis of the Legal Counsel of the United Nations, it is the perfect right of the General Assembly to do so and I am obviously prepared fully to respect that. As the representative of the Argentine Republic said, the General Assembly is the sole and only judge and it is up to the General Assembly to make the decision that it deems appropriate.

From that point of view, I understand from legal advice that, out of the speeches which were made this morning, the contribution of the representative of the Argentine Republic should be interpreted as a challenge to the President's ruling. I would also be very grateful to the representative of Antigua and Barbuda, who spoke first this morning on behalf of the Group of Latin American and Caribbean States, if he could confirm that it was his intention to challenge my ruling under rule 71 of the rules of procedure, so that we can proceed according to the letter of the procedure.

Mr. Lewis (Antigua and Barbuda): May I ask for a few minutes so that I may meet and consult with the Group of Latin American and Caribbean States, and then get back to you, Sir?

The President: We will resume our procedures in a few minutes.

The meeting was suspended at 11.10 a.m. and resumed at 11.45 a.m.

The President: I would now like to ask the representative of Antigua and Barbuda about the outcome of the consultations that the delegate asked for. Can the delegate from Antigua and Barbuda please take the floor?

Mr. Lewis (Antigua and Barbuda): On behalf of the Group of Latin American and Caribbean States, I wish to state the Group is firm that it in no way challenged the President's intention, nor had it any intention to challenge his ruling. The Group would like to propose that we suspend the meeting in order to allow the President to hold consultations among regional groups in order to find a solution that is both pragmatic and legal. Again, I repeat that it is not the intention of this Group to challenge the ruling of the President.

Mr. MacKay (New Zealand): I express appreciation to the representative of Antigua and Barbuda for his statement, because I think it would have been very unfortunate indeed if we had needed to take a decision on a challenge at this stage. It seems to me, looking at the very unequivocal advice that was received from the Legal Counsel, that you, Mr. President, had very little option but to proceed on the basis of that advice. But I also understand very well the concerns that have been raised by delegations, and you as President have indicated that you understand those concerns very well.

I think that the proposal by the representative of Antigua and Barbuda is a very sound one. Could I suggest, however, that the meeting, rather than being the representatives of the regional groups, might be a meeting of the Bureau, perhaps with the Legal Counsel, given the difficulty that some of the regional groups have in actually participating in discussions of substance. It also seems to me that if you convened a meeting of the Bureau you would have a very wide range of views and experience to draw upon and indeed that this is appropriately a collective responsibility for the Bureau as a whole to shoulder, rather than you as President to have to shoulder, particularly in light of the advice which you received.

So, I support the proposal by the representative of Antigua and Barbuda but with that slight gloss on the nature of the consultations, if he was agreeable to that.

The President: I appreciate the contributions of the delegates from Antigua and Barbuda and from New Zealand.

Mr. Listre (Argentina) (*spoke in Spanish*): I should like to endorse what has been said by the representative of Antigua and Barbuda, the Chairman of the Group of Latin American and Caribbean States.

Speaking on behalf of my own delegation, let me point out that I do not believe that I have said at any time that I was challenging the decision of the

President. It is not my intention, acting on behalf of my country in my national capacity, to challenge the decision of the President. In my statement this morning, I pointed out some criteria which are not worth repeating at this moment. I said that I believed that in my judgement, the proposal put forward by Germany was a practical way to solve the problem.

My delegation does not challenge the President. It is prepared to find a practical solution that, of course, conforms to legality. But fundamentally, it is a political decision, which the Assembly must take. And I consider it very opportune to support the proposal of the representative of New Zealand that we hold consultations with the Bureau of the General Assembly and the chairmen of the regional groups. A decision can be taken, and then the Secretary-General can be consulted for his opinion.

The President: As I see no other representative asking for the floor, let me make the following decision.

I would like to suspend this meeting until 3 o'clock this afternoon. I would like to ask the members of the Bureau to meet at 12 o'clock in Conference Room 1. I would also like to ask the chairmen of the respective regional groups to attend the meeting of the Bureau, if they wish. The meeting is open to them. I will also ask the Legal Counsel of the United Nations to attend that consultative meeting, at noon in Conference Room 1.

This meeting of the General Assembly is now suspended until 3 p.m., by which time I hope we will have found a solution that is both pragmatic and legal.

The meeting was suspended at 11.55 a.m. and resumed at 3.45 p.m.

The President: Let me briefly summarize for the Assembly the lengthy discussions we have had in the informal consultations of the Bureau, which were also attended by a number of other representatives.

A point was stressed by a number of representatives that, however difficult the situation may be, in finding a solution to it we should not put aside rules which do not suit us in any expedient manner. It was stressed that it is highly important for us to follow the rules which we have set for ourselves and agreed upon.

There was a warning shared by many that a course of action should be avoided by the General Assembly which could lead in some undefined future to a possible contestation of any decision taken by the International Criminal Tribunal for Rwanda, when someone who may not like such a decision could contest the legitimacy of the elections. That would be highly, highly unfortunate and it would create a very dangerous precedent.

It was made clear — and I would like to reiterate publicly here — that the problem which has arisen has not been in any way caused by the delegation of the Member State of Mauritania. I would like to assure all members of the General Assembly that the Government of Mauritania acted in complete compliance with the information which was supplied to me by the Secretariat and which I then conveyed to the Assembly on Wednesday morning. The Government of Mauritania therefore acted in good faith and is in no way responsible for the situation that is before us.

During the debate of the Bureau, one question was formulated and addressed via me to the Legal Counsel of the United Nations. The question was motivated by our shared desire to find an answer to our problem that will be both practical and legal — a sentiment and approach which I share. The question was whether it would be possible — whether legally it is in any way possible — to waive retroactively the application of Article 19 for one Member State — that is, Mauritania — and for one election — that is, the one that took place on Wednesday. The question was then passed to the Legal Counsel, Mr. Hans Corell. After a suspension of our meeting for over an hour, Mr. Corell came with a written response, which will be read out to the Assembly in full by the representative of the Secretariat in a minute. Let me tell the Assembly that the gist of the conclusion is that, unfortunately, from the legal point of view, such a course of action is not really open to us — or rather, is not recommended by the Legal Counsel.

The conclusion, which will be read out to you by Mr. Chen, of course cannot be other than that the matter is in front of the General Assembly and it is solely on the General Assembly to make the final decision. I, and others, will fully abide by and respect the Assembly's decision. But before making a decision, the Assembly should be given all the information as it has been made available to the Bureau.

I was asked to convey to you the feeling of the members of the Bureau after we were acquainted with the legal advice put forward by Mr. Corell. The Bureau agreed that no other course of action was open to me on Wednesday than the one which I regrettably had to take following the legal advice when I made the ruling that that election was invalid.

I appreciated the support and also regret that we did not have this discussion on Wednesday. On the other hand, the fact that I have postponed the election until today allowed you time to consult among yourselves and with your capitals. It was also possible for us to obtain more information from the lawyers, because we were as surprised as all of you by the situation which suddenly occurred on Wednesday.

Let me conclude by acknowledging that clearly many delegations quite understandably wished to find a way in which the outcome of the Wednesday elections could be declared valid. But, at the same time, everybody made very clear that we do not want to pay the price of not abiding by the United Nations Charter and the other rules and regulations which the General Assembly had agreed upon. Therefore, my own opinion is the same as I set out here this morning. The best way of accommodating the fully understandable — and I stress, fully understandable — political concerns expressed by many of you while abiding by the United Nations Charter and other existing rules is to repeat the elections and vote in the same way as on Wednesday and to ensure that the results will not be different today than they were on Wednesday. You would elect, from among the eleven judges, the six who received an absolute majority on Wednesday. I very much hope that this will be the case.

I would now like to ask the Under-Secretary-General for General Assembly and Conference Management to take the floor on behalf of the Secretariat.

Mr. Chen Jian: My statement will have two parts: to give a brief statement on behalf of the Secretariat, and to convey to you the opinion of the Legal Counsel.

First of all, on behalf of the Secretariat, I should like to express to you, Mr. President, and to the members of the General Assembly our deepest apologies and most sincere regrets for the unfortunate error made by members of the Secretariat. This mistake has caused a great deal of stress for delegations, in particular for those who were directly involved in the elections. For this we express our deep regret. I would also like to promise you that there will be a thorough investigation into the situation surrounding the error. As a result of this inquiry we will be in a position to propose effective measures to ensure that such mistakes will not occur in the future.

Now, I will convey the opinion of the Legal Counsel on the question, and I will read from a text provided:

> "The General Committee has asked that I" — meaning the Legal Counsel, to be understood as such henceforth — "review a suggestion to cure the invalidity that currently affects three rounds of balloting for permanent judges of the ICTR that were held on 29 January 2003. That suggestion was motivated by the undeniable fact that the error was the fault of the Secretariat. Accordingly, it was suggested that there was a need for flexibility to respect the sovereignty of Member States, which had voted in good faith.
>
> "Let me first note that I stand by the advice that I gave to the President on Wednesday. That advice has been circulated to you all.
>
> "The suggestion to retroactively cure the invalidity in the election process is based on a proposal to apply the last sentence of Article 19 of the Charter of the United Nations. That sentence reads as follows:
>
> > "'The General Assembly may, nevertheless, permit such a Member to vote if it is satisfied that the failure to pay is due to conditions beyond the control of the Member.'
>
> "From a legal point of view, the difficulty with this suggestion is that the Charter itself permits such a waiver only in one defined circumstance, specifically when 'the failure of the Member to pay is due to conditions beyond the control of the Member'.
>
> "If the suggestion made were to be accepted, the General Assembly would have to state, in an explicit decision, that it was acting in accordance with Article 19 and so make it clear that its decision was taken on the grounds that it was satisfied that the failure of the State

concerned to make the payment required to bring its arrears below the amount specified in the first sentence of Article 19 was 'due to conditions beyond the control of the Member'. The conclusion that this ground applies in the specific case in hand, would, moreover, have to be limited to the specific date in question, since the suggestion, as I understand it, is to retroactively validate only the three ballots that took place on Wednesday, 29 January 2003.

"The General Assembly has decided to confer upon the Committee on Contributions the responsibility of advising it on the action to be taken with regard to the application of Article 19 of the Charter. See rule 160 of the rules of procedure of the General Assembly.

"In the present case, if the suggestion were accepted, the General Assembly would have to retroactively suspend the application of rule 160.

"In the very limited time available, we have made a quick examination of the way in which Article 19 of the Charter and rule 160 of the rules of procedure of the General Assembly have been applied in practice.

"The information set out below indicates that the General Assembly has, on occasion, waived the strict requirement of rule 160 and has permitted a State to vote in advance of, or without, any consideration of its case by the Committee on Contributions.

> "'In 1968, Haiti was explicitly authorized, after it had invoked the factual requirements of Art. 19, clause 2, to participate in voting until the Committee on Contributions had given its opinion. A similar authorization was accorded to Yemen in 1971 when, as indicated by the representative of that country, a remittance in the necessary amount had already been dispatched but had not yet reached the UN. A similar procedure was adopted in 1973 when the GA, in the opening meeting of the 28th session on September 18, 1973, authorized Bolivia, the Central African Republic, Guinea and Paraguay to participate in voting after assurances had been given that the amount due had already been dispatched. Out of these States, Bolivia and later the Central African Republic contended at the same time that the delay was related to circumstances beyond their control.'"

"The quotation comes from the book *The Charter of the United Nations*, by Bruno Simma.

"In all these cases, the waiver was granted prospectively, before any voting took place. In no case that we have been able to identify has the General Assembly retroactively made a decision to grant a waiver under Article 19.

"In view of the above, I, as a lawyer and as Legal Counsel of the United Nation, could not advocate the course of action that has been suggested.

"At the same time, I would note that the matter is properly before the General Assembly, which has the power to take a final decision in the matter."

That ends the note from the Legal Counsel.

The President: I thank the representative of the Secretariat for reading out the statement that was read by Mr. Corell to the Bureau and that led to the conclusion that I conveyed to the Assembly.

In my humble opinion, therefore, we have only one course of action open to us. But if there is any Member State that has a different opinion, now is the time to speak, so that we can proceed according to the rules of procedure.

I see the representative of the Argentine Republic has asked to take the floor.

Mr. Listre (Argentina) (*spoke in Spanish*): First, I believe we must thank you, Sir, for the efforts that you have made in the attempt to find a solution to this troublesome and disagreeable situation in which we find ourselves, and of which you, Sir, the General Assembly and all Member States are the victims.

I think we are at a point at which we could discuss legally for hours which criteria should or should not be applied. This is not the intention of my country. I should only like to say that my country maintains its position with respect to the powers of the presidency to judge the validity of the elections held by the General Assembly. I reiterate that the Assembly is the sovereign master of its own rules. Without

prejudice to that, my country will not object, Sir, to your advice or suggestions to the Assembly. We once again thank you for your efforts to resolve this issue.

The President: I thank the representative of the Argentine Republic — in particular, in this difficult situation — for understanding the position I have taken.

As I see no other Member State asking for the floor, the General Assembly will continue with the election of 11 permanent judges of the International Criminal Tribunal for Rwanda.

As members are aware, at the 52nd plenary meeting of the fifty-third session, held on 3 November 1998, the General Assembly elected the nine judges of all three Trial Chambers of the International Criminal Tribunal for Rwanda. Their terms of office are due to expire on 24 May 2003.

By its resolution 1329 (2000), of 30 November 2000, the Security Council decided to increase the number of judges in the Appeals Chamber of the International Criminal Tribunal for Rwanda and of the International Tribunal for the Former Yugoslavia. In order that the increase in the number of judges in the Appeals Chamber might be made, the Security Council also decided that two additional judges should be elected as soon as possible as judges of the International Criminal Tribunal for Rwanda, and that the judges so elected should serve until the expiry of the terms of office of the judges currently serving on the Tribunal.

At the 99th plenary meeting of the fifty-fifth session, held on 24 April 2001, the General Assembly elected the two additional judges. The terms of office of the two additional judges so elected are also due to expire on 24 May 2003.

The election of the 11 permanent judges will take place in accordance with the relevant provisions of article 12 and article 12 bis of the Statute of the International Criminal Tribunal for Rwanda, as amended by the Security Council in its resolution 1431 (2002), of 14 August 2002.

In accordance with article 12 bis, paragraph 1 (d), of the Statute of the International Criminal Tribunal for Rwanda, amended by the Security Council, I had the pleasure on Wednesday, 29 January, of welcoming the Holy See, being a non-Member State which maintains a permanent observer mission at United Nations Headquarters, to participate in the election in the same manner as the States Members of the United Nations.

In accordance with subparagraph 1 (c) of article 12 bis of the Statute of the International Criminal Tribunal for Rwanda, the Security Council, at its 4666th meeting, on 13 December 2002, established a list of 23 candidates for transmittal to the General Assembly. The list, adopted by the Council in resolution 1449 (2002), of 13 December 2002, was formally conveyed to the President of the General Assembly by a letter dated 13 December 2002 from the President of the Security Council. The letter was issued as document A/57/491.

The memorandum by the Secretary-General concerning the election of judges of the International Criminal Tribunal for Rwanda is contained in document A/57/492 and Corrigendum 1. The list of candidates can be found in paragraph 11 of document A/57/492 and Corrigendum 1.

At this time, I would like to announce that the Permanent Mission of Ghana and the Permanent Mission of the Republic of Moldova to the United Nations have informed the Secretary-General of the United Nations by notes verbales dated 30 January 2003 that Mr. Emile Francis Short of Ghana and Mr. Xenofon Ulianovschi of the Republic of Moldova no longer wish to be considered as candidates. I have also been informed by the representative of Georgia that Mr. Teimuraz Bakradze of Georgia no longer wishes to be a candidate. Accordingly, those names have been deleted from the ballot paper.

I would like to ask, are there any further withdrawals at this stage? As I see no such indication, let us continue.

The curricula vitae of the candidates are contained in document A/57/493. In that connection, may I bring to the Assembly's attention article 12 of the Statute of the International Criminal Tribunal for Rwanda, as amended, which stipulates that permanent judges of the Tribunal shall be persons of high moral character, impartiality and integrity who possess the qualifications required in their respective countries for appointment to the highest judicial offices. According to the same provision, due account shall be taken in the overall composition of the Chambers of the Tribunal of the experience of the judges in criminal law and international law, including international humanitarian law and human rights law.

I would like to recall that, in his memorandum, the Secretary-General suggested that, given the similar nature of the election of judges of the International Court of Justice and the election of judges of the International Criminal Tribunal for Rwanda, and as was decided at the time of the elections of judges in 1995, 1998 and 2001, similar election procedures should be followed in the Assembly. The General Assembly, on Wednesday, 29 January 2003, decided that those precedents shall be followed and that rule 151 of the rules of procedure of the General Assembly shall be applied to the election of permanent judges of the International Criminal Tribunal for Rwanda.

In accordance with paragraph 1 (d) of article 12 bis of the Statute of the International Criminal Tribunal for Rwanda, as amended, the candidates who receive an absolute majority of the votes of States Members of the United Nations and of the non-member State shall be declared elected. The consistent practice of the United Nations has been to interpret the words "absolute majority" as meaning a majority of all electors, whether or not they vote or are allowed to vote. The electors, for this purpose, are all 191 Member States, together with the non-member State, the Holy See. Accordingly, 97 votes constitute an absolute majority for the purpose of the present election.

If, in the first ballot, the number of candidates obtaining an absolute majority is less than 11, a second ballot will be held, and balloting will continue in the same meeting, if and as necessary, until 11 candidates have obtained an absolute majority. In any second or subsequent ballot, each elector may vote for no more than 11 candidates, less the number of candidates who have already obtained absolute majorities.

I also wish to recall that, on Wednesday, the General Assembly decided that any second or subsequent balloting shall be unrestricted. Votes may accordingly be cast in any second or subsequent ballot for any eligible candidate who has not yet obtained an absolute majority.

Finally, the Assembly further decided that, if more than 11 candidates obtain an absolute majority of votes in the first ballot, a second ballot will be held on all candidates, and balloting will continue at the same meeting, if and as necessary, until 11 candidates, and no more, have obtained an absolute majority.

Before we begin the voting process, I should like to remind members that, pursuant to rule 88 of the rules of procedure of the General Assembly,

> "After the President has announced the beginning of voting, no representative shall interrupt the voting except on a point of order in connection with the actual conduct of the voting."

Therefore, any announcements such as those concerning withdrawals of candidatures should be made prior to the commencement of the voting process — that is to say, before the announcement of the beginning of the voting process.

We shall now begin the voting process. Ballot papers will now be distributed.

I request representatives to use only those ballot papers that are being distributed. Representatives may vote for no more than 11 candidates. Only those candidates whose names appear on the ballot papers are eligible for election. Representatives will indicate the 11 candidates for whom they wish to vote by placing crosses to the left of their names on the ballot papers. Ballot papers on which more than 11 names are marked will be considered invalid. Votes may be cast only for those whose names appear on the ballot papers.

At the invitation of the President, Mr. Mangueira (Angola), Ms. Stanley (Ireland), Mr. Kipkemei Kottut (Kenya), Ms. Phonseya (Lao People's Democratic Republic), Mr. Ruckelshaussen Villarejo (Paraguay) and Mr. Staszak (Poland) acted as tellers.

A vote was taken by secret ballot.

The meeting was suspended at 4.25 p.m. and resumed at 5.40 p.m.

The President: The result of the voting is as follows:

Number of ballot papers:	175
Number of invalid ballots:	1
Number of valid ballots:	174
Abstentions:	3
Number of members voting:	171
Required absolute majority:	97
Number of votes obtained:	
Mr. Mehmet Güney (Turkey)	124
Ms. Andrésia Vaz (Senegal)	122
Mr. Erik Møse (Norway)	116

Mr. Lloyd George Williams (Saint Kitts and Nevis)	114
Mr. William Hussein Sekule (United Republic of Tanzania)	113
Ms. Inés Mónica Weinberg de Roca (Argentina)	113
Mr. Serguei Aleckseievich Egorov (Russian Federation)	101
Mr. Mansoor Ahmed (Pakistan)	95
Mr. Jai Ram Reddy (Fiji)	94
Ms. Arlette Ramaroson (Madagascar)	93
Mr. Asoka de Zoysa Gunawardana (Sri Lanka)	92
Mr. Pavel Dolenc (Slovenia)	82
Mr. Kocou Arsène Capo-Chichi (Benin)	81
Mr. Frederick Mwela Chomba (Zambia)	77
Mr. Michel Mahouve (Cameroon)	77
Mr. Francis M. Ssekandi (Uganda)	75
Mr. Mohammed Ibrahim Werfalli (Libyan Arab Jamahiriya)	67
Mr. Winston Churchill Matanzima Maqutu (Lesotho)	58
Mr. Cheick Traoré (Mali)	45
Mr. Robert Fremr (Czech Republic)	36

Having obtained an absolute majority, the following candidates are elected members of the International Criminal Tribunal for Rwanda for a four-year term of office beginning on 25 May 2003: Mr. Serguei Aleckseievich Egorov (Russian Federation), Mr. Mehmet Güney (Turkey), Mr. Erik Møse (Norway), Mr. William Hussein Sekule (United Republic of Tanzania), Ms. Andrésia Vaz (Senegal), Ms. Inés Mónica Weinberg de Roca (Argentina) and Mr. Lloyd George Williams (Saint Kitts and Nevis).

I cannot resist thanking the General Assembly for solving the political problem after having solved the legal one by electing, among the seven, the six who were elected on Wednesday.

There remain four seats to be filled. The Assembly will now proceed to another ballot to fill the remaining four vacancies. In accordance with the decision taken on Wednesday, the second round of balloting shall be unrestricted.

I call on the representative of Mali on a point of order.

Mr. Keita (Mali) (*spoke in French*): Mali wishes to withdraw the candidacy of Mr. Cheick Traoré.

The President: I call on the representative of the Czech Republic on a point of order.

Mrs. Grollová (Czech Republic): On behalf of Mr. Robert Fremr, the Czech Republic would like to thank all the countries that supported him in the first round and all those that intended to support him in the second round. Given the circumstances, and to save the time that withdrawal would require to undertake technical amendments to the ballot, the Government of the Czech Republic wants to stay in the list of candidates but would ask all those who intended to give us their vote to use it in favour of the candidate of Slovenia, Mr. Pavel Dolenc.

The President: Allow me to mention that, because the candidate of Mali has withdrawn, the ballot papers will have to be amended anyway.

I call on the representative of Lesotho on a point of order.

Mr. Moleko (Lesotho): We would like to withdraw the name of Mr. Winston Churchill Matanzima Maqutu from consideration in the next ballot.

The President: Members have heard the statements made by the representative of Mali that Mr. Cheick Traoré and by the representative of Lesotho that Mr. Winston Churchill Matanzima Maqutu have decided to withdraw their names from the list of candidates established by the Security Council. Accordingly, these names will be deleted from the ballot paper.

Members have also heard the statement made by the representative of the Czech Republic.

In view of the fact that new ballots will have to be prepared to take into account the withdrawals that have just been announced, I would suggest that the meeting be suspended and resumed in 15 minutes to proceed with the second round of balloting.

May I take it that the Assembly agrees to this proposal?

It was so decided.

The meeting was suspended at 5.50 p.m. and resumed at 6.15 p.m.

The President: The Assembly will now proceed to a further ballot to fill the remaining four vacancies. In accordance with the decision taken on Wednesday,

29 January, the second round of balloting shall be unrestricted.

We shall now begin the voting process. Ballot papers will now be distributed.

I request representatives to use only the ballot papers that have been distributed. Only those candidates whose names appear on the ballot papers are eligible for election. Representatives will indicate the four candidates for whom they wish to vote by placing crosses to the left of their names on the ballot papers. Ballot papers on which more than four names are marked will be considered invalid. Votes may be cast only for those whose names appear on the ballot papers.

At the invitation of the President, Mr. Mangueira (Angola), Ms. Stanley (Ireland), Mr. Kipkemei Kottut (Kenya), Ms. Phonseya (Lao People's Democratic Republic), Mr. Ruckelshaussen Villarejo (Paraguay) and Mr. Staszak (Poland) acted as tellers.

A vote was taken by secret ballot.

The meeting was suspended at 6.25 p.m. and resumed at 7.20 p.m.

The President: The result of the voting is as follows:

Number of ballot papers:	174
Number of invalid ballots:	0
Number of valid ballots:	174
Abstentions:	1
Number of members voting:	173
Required absolute majority:	97
Number of votes obtained:	
Mr. Jai Ram Reddy (Fiji)	111
Ms. Arlette Ramaroson (Madagascar)	105
Mr. Mansoor Ahmad(Pakistan)	100
Mr. Asoka de Zoysa Gunawardana (Sri Lanka)	78
Mr. Pavel Dolenc (Slovenia)	60
Mr. Kocou Arsène Capo-Chichi (Benin)	56
Mr. Frederick Mwela Chomba (Zambia)	48
Mr. Michel Mahouve (Cameroon)	48
Mr. Francis M. Ssekandi (Uganda)	39
Mr. Mohammed Ibrahim Werfalli (Libyan Arab Jamahiriya)	30
Mr. Robert Fremr (Czech Republic)	0

Having obtained an absolute majority, the following three candidates are elected members of the International Criminal Tribunal for Rwanda for a four-year term of office beginning on 25 May 2003: Mr. Mansoor Ahmad (Pakistan), Ms. Arlette Ramaroson (Madagascar) and Mr. Jai Ram Reddy (Fiji).

There remains one seat to be filled. The Assembly will now proceed to another ballot to fill the remaining vacancy. In accordance with the decision taken on Wednesday, the third round of balloting shall be unrestricted.

Mr. Petrů (Czech Republic): On behalf of the Government of the Czech Republic, I would like once again to convey our sincere thanks to the Governments that have extended their support to the candidate of the Czech Republic. My Government has decided to withdraw that candidacy.

Mr. Semakula Kiwanuka (Uganda): First of all, on behalf of my delegation, I would like to thank all the delegations that have supported us throughout the rounds of balloting last Wednesday and today. I would also like to pledge our support to all those whom we have supported, as well as to announce that Uganda, having obtained 39 votes, is withdrawing its candidacy at this stage.

The President: Members have heard the statements by the representatives of the Czech Republic and Uganda, namely, that Mr. Robert Fremr and Mr. Francis M. Ssekandi, respectively, have withdrawn from the list of candidates established by the Security Council. Accordingly, those names will not appear on the ballot paper.

If delegations have no objections, we will proceed with the current round of balloting, taking into account the statements that have just been made by the representatives of the two countries I have just mentioned. Once the ballot papers, which are now ready, are distributed, I will ask delegations to strike from the ballot papers the names of the two candidates who have just been withdrawn. Is that clear? I would like to ask all Member States to strike from the ballot papers the names of the candidates from the Czech Republic and Uganda.

We shall now continue with the balloting and begin the voting process. Ballot papers will now be distributed. I request representatives to use only the

ballot papers that are now being distributed and to strike the names of the candidates who no longer wish to be considered. Only the candidates who are eligible for election will be considered by Member States. Representatives will indicate the one candidate for whom they wish to vote by placing a cross to the left of that name on the ballot papers. Ballot papers on which more than one name is marked will be considered invalid.

To be on the safe side, while representatives are filling in their ballot papers, let me repeat that candidates Mr. Robert Fremr (Czech Republic) and Mr. Francis M. Ssekandi (Uganda), whose names are now on the ballot papers, should be stricken from those papers. Representatives should use a cross to indicate one name from the remaining candidates; Mr. Kocou Arsène Capo-Chichi (Benin), Mr. Frederick Mwela Chomba (Zambia), Mr. Pavel Dolenc (Slovenia), Mr. Asoka de Zoysa Gunawardana (Sri Lanka), Mr. Michel Mahouve (Cameroon) and Mr. Mohammed Ibrahim Werfalli (Libyan Arab Jamahiriya).

At the invitation of the President, Mr. Mangueira (Angola), Ms. Stanley (Ireland), Mr. Kipkemei Kottut (Kenya), Ms. Phonseya (Lao People's Democratic Republic), Mr. Ruckelshaussen Villarejo (Paraguay) and Mr. Staszak (Poland) acted as tellers.

A vote was taken by secret ballot.

The meeting was suspended at 7.35 p.m. and resumed at 8.10 p.m.

Mr. De Alba (Mexico), Vice-President, took the Chair.

The Acting President (*spoke in Spanish*): The result of the voting is as follows:

Number of ballot papers:	165
Number of invalid ballots:	1
Number of valid ballots:	164
Abstentions:	2
Numbcr of members voting:	162
Required absolute majority:	97
Number of votes obtained:	
Mr. Asoka de Zoysa Gunawardana (Sri Lanka)	67
Mr. Pavel Dolenc (Slovenia)	31
Mr. Kocou Arsène Capo-Chichi (Benin)	30
Mr. Frederick Mwela Chomba (Zambia)	15
Mr. Michel Mahouve (Cameroon)	10
Mr. Mohammed Ibrahim Werfalli (Libyan Arab Jamahiriya)	9

Since no candidate has obtained an absolute majority, the Assembly will have to proceed to another unrestricted ballot to fill the remaining vacancy.

In accordance with the decision taken earlier, that ballot shall be unrestricted.

There are six candidates remaining.

I call on the representative of the Libyan Arab Jamahiriya.

Mr. Elmessallati (Libyan Arab Jamahiriya) (*spoke in Arabic*): Allow me at the outset to extend my wholehearted thanks to the delegations that supported the candidate put forward by my country. In the light of the results obtained, on behalf of the Libyan candidate, I would like to announce that we have decided to withdraw from the election. We would like delegations that supported our candidate to cast their votes in favour of any of the other candidates of the African continent.

The Acting President (*spoke in Spanish*): Members have heard the statement just made by the representative of the Libyan Arab Jamahiriya that Mr. Mohammed Ibrahim Werfalli has decided to withdraw his name from the list of candidates established by the Security Council. Accordingly, that name should be stricken from the ballot papers.

If delegations have no objection, we shall proceed with the current round of balloting, taking into account the statement made by the Libyan Arab Jamahiriya. Once the ballot papers have been distributed I shall ask delegations to strike from the ballot papers the name of the candidate who has just withdrawn.

We shall now begin the voting process. Ballot papers will now be distributed.

I request representatives to use only the ballot papers that have been distributed and to strike the name of the individual who no longer wishes to be considered as a candidate, namely, Mr. Mohammed Ibrahim Werfalli.

Only those candidates whose names remain on the ballot papers are eligible for election. Representatives will indicate the one candidate for whom they wish to vote by placing a cross to the left of

his name on the ballot paper. Ballot papers on which more than one name is marked will be considered invalid. Votes may be cast only for those whose names remain on the ballot papers.

At the invitation of the Acting President, Mr. Mangueira (Angola), Ms. Stanley (Ireland), Mr. Kipkemei Kottut (Kenya), Ms. Phonseya (Lao People's Democratic Republic), Mr. Ruckelshaussen Villarejo (Paraguay) and Mr. Staszak (Poland) acted as tellers.

A vote was taken by secret ballot.

The meeting was suspended at 8.25 p.m. and resumed at 9 p.m.

The Acting President (*spoke in Spanish*): The result of the voting is as follows:

Number of ballot papers:	157
Number of invalid ballots:	0
Number of valid ballots:	157
Abstentions:	2
Number of members voting:	155
Required absolute majority:	97
Number of votes obtained:	
Mr. Asoka de Zoysa Gunawardana (Sri Lanka)	89
Mr. Kocou Arsène Capo-Chichi (Benin)	23
Mr. Pavel Dolenc (Slovenia)	23
Mr. Frederick Mwela Chomba (Zambia)	13
Mr. Michel Mahouve (Cameroon)	7

Since no candidate has received an absolute majority, the Assembly will have to proceed to another ballot to fill the remaining vacancy.

In accordance with the decision taken on Wednesday, that ballot shall be unrestricted.

There are five candidates remaining.

I give the floor to the representative of Zambia.

Mr. Musambachime (Zambia): Allow me to take this opportunity to thank all the delegations that have supported our candidacy. I wish to inform the Assembly that Zambia is withdrawing the candidacy of Justice Chomba in order to expedite the process. We would like to thank all of our colleagues who have stood with us throughout.

Mr. Tidjani (Cameroon) (*spoke in French*): At this stage in the proceedings, I would like to avail myself of this opportunity to state that the delegation of Cameroon is withdrawing the candidacy of Mr. Mahouve. We would like also to thank all delegations for their support and to wish good luck to the remaining candidates on the list.

The Acting President (*spoke in Spanish*): If no other delegation wishes to take the floor, I would request representatives, when they receive their ballots, to please delete the names of the candidates that have withdrawn, as announced by the representatives of Zambia and Cameroon. The names of the candidates to be deleted are Mr. Frederick Mwela Chomba of Zambia and Mr. Michel Mahouve of Cameroon.

If I hear no objection, and in view of the announced withdrawals, we shall now conduct another round of balloting.

We shall now begin the voting process. Ballot papers will now be distributed.

Representatives will indicate the candidate for whom they wish to vote by placing a cross to the left of his name on the ballot papers. Votes may be cast for only one candidate. I should like to remind representatives that the candidacies of Zambia and Cameroon are no longer valid.

At the invitation of the President, Mr. Mangueira (Angola), Ms. Stanley (Ireland), Mr. Kipkemei Kottut (Kenya), Ms. Phonseya (Lao People's Democratic Republic), Mr. Ruckelshaussen (Paraguay) and Mr. Staszak (Poland) acted as tellers.

A vote was taken by secret ballot.

The meeting was suspended at 9.15 p.m. and resumed at 9.35 p.m.

The Acting President (*spoke in Spanish*): The result of the voting is as follows:

Number of ballot papers:	153
Number of invalid ballots:	0
Number of valid ballots:	153
Abstentions:	2
Number of members voting:	151
Required absolute majority:	97
Number of votes obtained:	
Mr. Asoka de Zoysa Gunawardana (Sri Lanka)	100

Mr. Kocou Arsène Capo-Chichi (Benin)	29
Mr. Pavel Dolenc (Slovenia)	22

Having obtained an absolute majority, Mr. Asoka de Zoysa Gunawardana (Sri Lanka) has been elected a member of the International Criminal Tribunal for Rwanda for a four-year term of office beginning on 25 May 2003.

Having obtained an absolute majority, the following 11 candidates are elected members of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994, to serve a four-year term of office beginning on 25 May 2003: Mr. Mansoor Ahmed (Pakistan), Mr. Sergei Aleckseievich Egorov (Russian Federation), Mr. Asoka de Zoysa Gunawardana (Sri Lanka), Mr. Mehmet Güney (Turkey), Mr. Erik Møse (Norway), Ms. Arlette Ramaroson (Madagascar), Mr. Jai Ram Reddy (Fiji), Mr. William Hussein Sekule (United Republic of Tanzania), Ms. Andrésia Vaz (Senegal), Ms. Inés Mónica Weinberg de Roca (Argentina) and Mr. Lloyd George Williams (Saint Kitts and Nevis).

I take this opportunity to extend to the judges the congratulations of the General Assembly on their election and to thank the tellers for their assistance.

We have thus concluded this stage of our consideration of agenda item 18.

The meeting rose at 9.45 p.m.